

## Chapter 11-3 Industrial and Prohibited Wastewater Discharges

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Boulder Revised Code, 1981

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Adopted by Ordinance No. 4667. Amended by Ordinance No. 6087. Derived from Ordinance Nos. 3836, 4412, 4446. Amended by Ordinance No. 6087.

### 11-3-1 Legislative Intent.

(a) This chapter sets forth uniform requirements for direct and indirect discharges into the city wastewater collection and treatment system and enables the city to comply with all applicable federal and state laws. The chapter is necessary to protect the health, safety, and welfare of the residents of the city. This chapter authorizes the issuance of industrial discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for equitable fees to fund the program established herein.

(b) The purposes of the chapter are to:

(1) Provide for and promote the general health, safety, and welfare of the citizens residing within the city and downstream water users and residents;

(2) Prevent the introduction of pollutants into the publicly owned treatment works (POTW) that will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system or interfere with beneficial uses of the receiving waters;

(3) Prevent the introduction of pollutants into the POTW that will interfere with the operation of the system, including interference with its use or disposal of biosolids;

(4) Improve the opportunity to recycle and reclaim wastewaters and biosolids from the system;

(5) Provide for equitable distribution of cost of the wastewater utility among users<sup>2</sup>;

(6) Protect city personnel who may work with wastewater and biosolids in the course of their employment;

(7) Prevent the introduction of wastes that may adversely affect the environment or may cause a violation of the city's National Pollution Discharge Elimination System ("NPDES") permit or may contribute to the need for modification of that permit;

(8) Provide revenues derived from the application of this section to defray the city's cost of operating and maintaining adequate wastewater collection and treatment systems and to provide funds for capital outlay, bond debt service costs, capital improvements, and depreciation for the equitable distribution of the cost of operation, maintenance, and improvement of the POTW; and

(9) Promote pollution prevention through source reduction and waste minimization.

240 C.F.R. 403.2.

Ordinance Nos. 5158 (1988); 5771 (1995).

### 11-3-2 Application of Chapter.

The provisions of this chapter apply equally to all users of the city wastewater utility, including, without limitation, the POTW, whether inside or outside the city. The city may deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, which are discharged to the POTW by users.

Ordinance Nos. 5397 (1991); 5771 (1995).

### 11-3-3 Definitions.

(a) The following terms used in this chapter have the following meanings unless the context clearly indicates otherwise:

"Act" or "the act" means the Federal Water Pollution Control Act, P.L. 92-500, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.

"Ammonia" (NH<sub>3</sub>-N) means the measure of the total nitrogen component of ammonia expressed in

milligrams per liter measured in accordance with procedures set forth in the most recent edition of the EPA &ldquo;Methods for Chemical Analysis of Water and Wastes.&rdquo;

&ldquo;Authorized representative of industrial user&rdquo; means either a principal executive officer of at least the level of vice president, if the industrial user is a corporation; a general partner or proprietor, if the industrial user is a partnership or proprietorship; or a duly authorized representative, if such representative is responsible for the overall operation of the facilities from which any direct or indirect discharge originates.

&ldquo;Average strength sewage&rdquo; means sewage containing wastes in amounts less than or equal to 230 mg/l BOD or 490 mg/l COD, and 220 mg/l TSS, and 25 mg/l NH<sub>3</sub>-N.

&ldquo;Biochemical Oxygen Demand (BOD)&rdquo; means the quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20ø C. expressed in milligrams per liter.

&ldquo;Bypass&rdquo; means the intentional diversion of waste streams from any portion of a user&rsquo;s treatment facility.

&ldquo;Categorical standard&rdquo; (see &ldquo;Federal Categorical Pretreatment Standard&rdquo;).

&ldquo;Chemical Oxygen Demand (COD)&rdquo; means the measure of the oxygen equivalent to the portion of organic matter in a sample that is susceptible to oxidation by a strong chemical oxidant under laboratory procedures, expressed in milligrams per liter.

&ldquo;City manager&rdquo; means the city manager or his or her designee.

&ldquo;Commercial facility&rdquo; means a place or structure(s) having an address where business is conducted for profit, and such business is neither classified as a significant industrial user nor as a categorical industry.

&ldquo;Compatible pollutants&rdquo; or &ldquo;conventional pollutants&rdquo; means biochemical oxygen demand (BOD), total suspended solids (TSS), pH, fecal coliform and oil and grease (O/G), plus additional pollutants identified in the city&rsquo;s NPDES permit if the POTW is designed to treat such pollutants, and in fact does remove such pollutants to a substantial degree.

&ldquo;Composite sample&rdquo; means a representative flow-proportioned or time-proportioned sample collected within a twenty-four hour period composed of a minimum of four individual grab samples collected at equally spaced intervals and combined according to flow or in equal volumes.

&ldquo;Contributor&rdquo; means any person who contributes or causes the contribution of wastewater to the wastewater utility.

&ldquo;Cooling water&rdquo; means the water discharged from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

&ldquo;Daily maximum&rdquo; is the average concentration measured over a twenty-four hour period.

&ldquo;Deleterious substance&rdquo; means any substance capable of causing physical, chemical or biological contamination or degradation to the environment; a deleterious (acute or chronic) effect on fish, bird, wildlife, plant life; or that would otherwise interfere with the beneficial use of receiving waters.

&ldquo;Dilution&rdquo; means to alter or reduce the concentration of any wastewater stream by adding water or by mixing it with other waste streams.

&ldquo;Direct discharge&rdquo; means the discharge of treated or untreated wastewater or any other pollutant directly to waters of the state.

&ldquo;Discharge&rdquo; means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment or to the POTW.

&ldquo;Discharger&rdquo; means any person who discharges or causes the discharge of wastewater to the wastewater utility.

&ldquo;Domestic wastes&rdquo; means liquid wastes (a) from the non-commercial preparation, cooking, and handling of food, or (b) containing only human excrement and similar matter from the sanitary conveniences of dwellings, commercial buildings, industrial facilities, and institutions.

“Enforcement response plan” (“ERP”) means a written plan which contains detailed procedures indicating how the city manager will investigate and respond to instances of user non-compliance.

“Environmental Protection Agency (EPA)” means the U.S. Environmental Protection Agency, or where appropriate, the administrator or other duly authorized official of the agency.

“Excess user charge” means the rate system used to charge significant industrial users whose sewage strength is higher than average strength sewage.

“Facility” means any building, structure, installation, equipment, pipe or pipeline including, without limitation, any pipe into a sanitary sewer or any portion of the POTW, well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock or aircraft.

“Federal categorical pretreatment standard” or “categorical standard” means any regulation containing pollutant discharge limits promulgated by EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of users, which currently appear in 40 C.F.R. Subchapter N.

“Flow” means volume of wastewater.

“Flow recorder” means a device installed on a user's wastewater discharge line in such a manner as to accurately determine wastewater flow entering the POTW.

“Four day average limit” means the average of any four consecutive days of sampling and analysis collected during a given period of time (week, month, quarter, etc.) for specified industrial sources, e.g., electroplating.

“Garbage” means putrescible animal or vegetable waste from the preparation, cooking, and serving of food or the storage or sale of produce.

“Grab sample” means a sample taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

“Grease/sand interceptor” means a tank that holds a minimum of seven hundred fifty gallons and that serves one or more fixtures and is remotely located. Interceptors include, without limitation, tanks that capture wastewater from dishwashers, floor drains, pot and pan sinks and trenches, or wastewater from vehicle maintenance facilities, car washes or activities with a petroleum wash away byproduct.

“Grease trap” means a device designed to retain grease from one to a maximum of four fixtures. A grease trap is not appropriate for use on heated water fixtures, including, without limitation, dishwashers, or those fixtures connected prior to waste disposal units, including, without limitation, garbage disposals and grinders.

“Hauled waste” means any waste transported and discharged to the POTW from the place of origin or storage via rail, truck, or other mode of transportation.

“Hazardous pollutants” means any constituent or combination of constituents that is classified as hazardous under state or federal regulations or is included on the federal list of toxic pollutants as currently specified in 40 C.F.R. Part 122, Appendix D.

“Hazardous waste” means a waste that is classified as hazardous under federal regulations or is included in the federal list of hazardous waste as currently specified in 40 C.F.R. 261, Subparts C and D.

“Holding tank waste” means any waste from holding tanks such as vessels, truck tanks, chemical toilets, campers, trailers, septic tanks and vacuum pump tank trucks.

“Incompatible pollutant” means any waste product that cannot be easily or adequately treated by the city wastewater utility, including, without limitation, non-biodegradable dissolved solids.

“Indirect discharge” means the discharge or the introduction of pollutants from any source, including, without limitation, those regulated under Section 307(b) or (c) of the Act (33 U.S.C. 1317), into the POTW. The term “indirect discharge” also includes holding tank wastes discharged into the POTW.

“Industrial” means of or pertaining to industry, manufacturing, commerce, trade, or business, as distinguished from domestic or residential.

“Industrial category” means any of industrial groups designated by the EPA under Section 307 of the Act.

"Industrial discharge permit" means the document issued to a user by the city in accordance with the terms of this chapter.

"Industrial waste" or "wastewater" means all water-carried wastes and wastewater derived from any producing, manufacturing, processing, institutional, commercial, agricultural, or other non-domestic operation. Industrial wastewater may also include wastes of human origin similar to domestic wastewater which have been mixed with industrial wastes or wastewater prior to discharge to the POTW. Only wastes and wastewater derived solely from residential uses are excluded from this definition.

"Instantaneous maximum allowable discharge limit" means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

"Interceptor" means a containment device designed to intercept, trap or otherwise prevent grease, sand, flammable liquids, or other substances potentially harmful to the POTW from entering a sanitary sewer.

"Interference" means an act that harms or disrupts the facilities, processes, or operations; or has an adverse effect on the quality of the effluent, biosolids, air emissions, or other residuals generated by the POTW; or has an adverse effect on the receiving waters; or is likely to endanger life, health, or property or otherwise cause a nuisance; or results in violation of the city's NPDES permit or other permits; or, in the opinion of the city manager, otherwise adversely affects the city's ability to meet the objectives of this chapter.

"Mass discharge rate" means the weight of material discharged to the POTW during a given time interval. Unless otherwise specified, the mass discharge rate shall mean pounds per day of a particular constituent or combination of constituents.

"Mass limitations" means any EPA limit imposed pursuant to Section 307(b) of the Act on discharge of pollutant mass or mass limits deemed necessary by the city manager to meet NPDES permit requirements.

"Maximum daily concentration" means the maximum allowable discharge of a pollutant during a calendar day. Where daily maximum limitations are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where maximum limitations are expressed in terms of concentration, the daily discharge is the arithmetic average of the pollutant concentration derived from all measurements taken on that day.

"National Pollutant Discharge Elimination System (NPDES)" means the program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters or the contiguous zone and the oceans pursuant to Section 402 of the Act.

"National Pollutant Discharge Elimination System (NPDES) permit" means a permit issued under the National Pollutant Discharge Elimination System for discharge of wastewaters to the navigable waters of the United States pursuant to the Act.

"National pretreatment standard," "pretreatment standard," or "standard" means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. 1317), which applies to wastewater. This term includes prohibitive discharge limits established pursuant to 40 C.F.R. 403.5.

"New source" means any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards which will be applicable to such source if such standards are thereafter promulgated, provided that:

- (1) The building, structure, facility or installation is constructed at a site at which no other source is located; or
- (2) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
- (3) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing facility, and the extent to which the new facility is engaged in the same general type of activity as the existing source shall be considered.

"pH" means the intensity of acid or base condition of the solution expressed as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in moles per liter of solution.

"Pass through" means the discharge of pollutants through the wastewater utility into the receiving stream in

quantities or concentrations that are a cause of or significantly contribute to a violation of any requirements contained in the city NPDES permit.

“Phenols” means total hydroxy derivatives of benzene and its condensed nuclei (including phenol, chlorinated phenols, nitrophenols and chlorinated cresols) identified in Table 1, Section 307 of the Act which are detectable by EPA approved methods.

“Pollutant” means dredged spoil, dirt, slurry, solid waste, incinerator residue, sewage, biosolids, garbage, trash, chemical waste, biological nutrient, biological material, radioactive material, heat, wrecked or discarded equipment, rock, sand, or any industrial, municipal, or agricultural waste.

“Pollution” means the man-made, man-induced, or natural alteration of the physical, chemical, biological, and radiological integrity of water.

“Pollution Prevention” means the application of source reduction and recycling during day-to-day operations which reduces the need for treatment and disposal of wastes without transferring contamination to air, water, solid waste, or hazardous waste.

“POTW” or “publicly owned treatment works” means the city's wastewater treatment system. This includes without limitation any device and system used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes without limitation the wastewater treatment plant, sewers, pipes, and other conveyances that convey wastewater to the POTW treatment plant.

“Premises” means a parcel of real estate including any improvements thereon which is determined by the city to be a single user for purposes of receiving, using, and paying for wastewater utility services.

“Pretreatment" or "treatment” means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of the pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the wastewater utility, which may be obtained by physical, chemical, or biological processes or other means not including dilution.

“Pretreatment requirement" or "requirement” means any substantive or procedural pretreatment requirement other than a national pretreatment standard.

“Priority pollutants” means any of the toxic compounds designated by EPA, pursuant to Section 307 (a) of the Act, that can reasonably be expected in the discharges from industries.

“Process water” means water used in any manufacturing, forming or thermal process, or any other operation during which its characteristics are modified.

“Receiving waters” means lakes, rivers, streams, or other watercourses that receive treated or untreated wastewater.

“Revoke” or “revocation of permit” means the cancellation or nullification of the user's permit, which effectively terminates all rights and privileges of the user to discharge to the POTW on a permanent basis.

“Sanitary sewer” means a sewer which is designed to carry wastewater discharges from residential, commercial and industrial businesses to the POTW.

“Septic tank waste” means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

“Service line” or “private sewer” means a sewer line commencing at and collecting wastewater from a structure or facility and intended for discharging wastewater into the city wastewater utility.

“Significant change” means an increase or decrease in wastewater volume, concentration of materials or substance, or changes in types of wastes.

“Significant non-compliance” means:

(1)A chronic violation of wastewater discharge limits. For the purposes of this chapter, a chronic violation occurs when, during any six month period, at least sixty-six percent of all sampling requirements exceed the daily maximum or average limit for the same pollutant parameter.

(2)A technical review criteria (TRC) violation. For the purposes of this chapter, a TRC violation occurs when, during any

six month period, thirty-three percent or more of all sampling requirements for each pollutant parameter either equals or exceeds the daily maximum or average limit times the applicable TRC. TRC = 1.4 for BOD, TSS, fats, oil, and grease; and 1.2 for all other pollutants except pH.

(3) A violation of a pretreatment effluent limit (daily maximum or long-term average) that the city manager determines has caused, alone or in combination with other discharges, interference with the wastewater treatment process, or endangered the health of city employees or the general public.

(4) A discharge of a pollutant that has caused imminent endangerment to human health, welfare, or the environment, or has resulted in the wastewater utility's exercise of its emergency authority.

(5) Failure to meet, within ninety days, a compliance schedule as set forth in an enforcement order for starting construction, completing construction, or attaining final compliance.

(6) Failure to provide all required reports within thirty days after their due date.

(7) Failure to accurately report non-compliance.

(8) Any other violation which the city manager determines will adversely affect the operation of the pretreatment program or implementation of Chapter 11-3, "Industrial and Prohibited Discharges," B.R.C. 1981.

"Significant user" means:

(1) A user whose discharge is subject to categorical pretreatment standards; or

(2) A user who either discharges on average at least twenty-five thousand gallons of process water (excluding sanitary, non-contact cooling and boiler blowdown wastewater) per day to the POTW; or contributes process water amounting to at least five percent of the average dry weather hydraulic or organic capacity of the wastewater treatment plant; or,

(3) A user who is designated as such by the city manager on the basis that the user's discharge can adversely affect the wastewater utility's operation or that the industrial user violated any pretreatment standard or requirement.

"Slug" or "slug load" means any discharge of sewage or industrial waste that in concentration or mass of any given constituent exceeds for any one period of duration longer than fifteen minutes more than five times the average twenty-four hour or normal working period concentration or mass.

"Slug discharge" means any discharge of a non-routine, episodic nature, including, without limitation, an accidental spill or non-customary or unapproved batch discharge or any discharge of water or wastewater in which the concentration of any given constituent or the quantity of flow exceeds for any period of duration longer than fifteen minutes more than five times the average twenty-four hour concentration or flow rate during normal operation or adversely affects the POTW.

"Source reduction" or "waste minimization" means any action which causes a net reduction in the generation of waste.

"Standard Industrial Classification (SIC)" means a classification pursuant to the most recent edition of the Standard Industrial Classification Manual issued by the Executive Office of the President - Office of Management and Budget.

"State" means the State of Colorado.

"State waters" or "waters of the state" means any and all surface and subsurface waters which are contained in or flow in or through this state, but does not include waters in sewage systems, waters in treatment works of disposal systems, waters in potable water distribution systems, and all water withdrawn for use until use and treatment have been completed.

"Storm sewer or storm water sewer" means sewers, pipes and other conveyances which collect and convey storm waters, surface runoff, and other drainage.

"Storm water" means any flow occurring during or following any form of natural precipitation and resulting therefrom.

"Surcharge" means a charge for service in addition to the basic sewer user and debt service charge, for those users whose contribution contains biochemical oxygen demand (BOD), chemical oxygen demand (COD), total

suspended solids (TSS), or ammonia nitrogen (NH<sub>3</sub>-N) in concentrations which exceed limits specified herein for such pollutants.

"Suspension of services" or "suspension" means a temporary physical interruption of sewer services without revoking the permit itself.

"Total metals" means the sum of the concentrations of copper, nickel, total chromium, zinc, and cadmium.

"Total Suspended Solids (TSS)" means the total suspended matter, expressed in milligrams per liter, that floats on the surface of, or is suspended in, water, wastewater, or other liquids, and that is removable by laboratory filtering in accordance with procedures set forth in EPA Methods for Chemical Analysis of Water and Wastes.

"Toxic pollutants" means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provisions of Section 307(a) of the Act (33 U.S.C. 1317) or other acts.

"User" means any person who discharges, contributes or causes the contribution of wastewater into the POTW, storm water sewer system, stream, ditch, or other watercourse.

"Waste" means any solid, liquid, semi-solid, or gaseous material or substance which has been discarded for any reason.

"Waste minimization" (see "Source Reduction").

"Waste stream" means the liquid- or water-carried wastes from individual or combined sources from a residential, commercial, industrial, or institutional establishment.

"Wastewater" means the liquid and water carried industrial, domestic, or other polluted wastes or water from dwellings, commercial buildings, industrial plants, institutions, persons, or from other means, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which is contributed into or may enter the POTW, storm water sewer system, stream, ditch, or other water course.

"Wastewater classification survey" means the questionnaire that each industrial user must complete and have on file at the city manager's office.

"Wastewater constituents and characteristics" means the individual chemical, physical, bacteriological and radiological parameters, including volume and flow rate, and such other parameters that serve to define, classify or measure the contents, quality, quantity and strength of wastewater.

"Wastewater Ordinance" means Chapter 11-3, "Industrial and Prohibited Discharges," B.R.C. 1981.

"Wastewater system," "wastewater treatment system," or "wastewater utility" means any devices, facilities, structures, equipment, or works owned or used by the city for the purpose of the transmission, storage, treatment, recycling, or reclamation of wastewaters from within or without the city and includes land or sites that may be acquired or used, that will be an integral part of the treatment process, or that are used for ultimate disposal of residues resulting from such treatment.

"Watercourse" means a natural or artificial channel for the passage of water either continuously or intermittently.

(b) The following abbreviations have the following meanings:

"BOD" means biochemical oxygen demand.

"°C" means degrees Celsius.

"CFR" means the Code of Federal Regulations.

"COD" means chemical oxygen demand.

"EPA" means the United States Environmental Protection Agency.

"l" means liter.

&ldquo;lbs&rdquo; means pounds.

&ldquo;LEL&rdquo; means lower explosive limit.

&ldquo;mg&rdquo; means milligrams.

&ldquo;NH<sub>3</sub>-N&rdquo; means the total nitrogen component of ammonia.

&ldquo;NPDES&rdquo; means national pollutant discharge elimination system.

&ldquo;PCB&rdquo; means polychlorinated biphenyl.

&ldquo;TOC&rdquo; means total organic carbon.

&ldquo;TSS&rdquo; means total suspended solids.

Ordinance Nos. 5397 (1991); 5526 (1992); 5677 (1994); 5771 (1995).

#### 11-3-4 General Prohibitions.

(a) No user or other person, whether or not subject to federal categorical pretreatment standards, shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater that may interfere with the operation or performance of the wastewater utility or pass through the treatment system untreated<sup>1</sup>. These general prohibitions apply to all users of the POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state or local pretreatment standards or requirements.

(b) No user or other person shall discharge any sewage, other polluted waters, or other deleterious substance from any premises within the city into or upon any public highway, street, sidewalk, alley, land, public place, stream, ditch, or other watercourse or into any cesspool, storm or private sewer, or natural water outlet, except where suitable treatment has been provided in accordance with provisions of applicable federal, state, and local laws.

(c) No user or other person shall discharge any sewage, polluted waters, or other deleterious substances in violation of an industrial discharge permit.

(d) No user or other person shall discharge into the POTW the following substances or any amounts of substances exceeding the following limits:

(1) Any liquids, solids, or gases that, by reason of their nature or quantity, are or may be sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the wastewater utility. At no time may two successive readings on any explosion hazard meter, at the point of discharge into the sewer, or at any point in the system, be more than five percent, nor may any single reading exceed ten percent, of the lower explosive limit of the meter. Wastewaters discharged into a public sewer may not have a flash point lower than 187°F, as determined by analytical methods approved by the city manager. Prohibited materials include, without limitation, gasoline, fuel oils, mineral oil, lubricating oil, benzene, naphtha, ethers, carbides, perchlorates, and xylene<sup>1</sup>;

(2) Any wastewater having a pH less than 5.5 or greater than 10.5 or wastewater having any other corrosive property capable of causing damage or hazard to structures, operations, or personnel of the wastewater utility<sup>2</sup>;

(3) Solid or viscous substances that may obstruct the flow or interfere with the operation of the POTW, including, without limitation, cinders, sand, mud, cement, plaster, lime slurry or sludge, stone or marble dust, asphalt residues, tar, wax, paraffin, paint, chemical sludges or residues, metals, glass, plastics, wood, shavings, wastepaper, paunch manure, excessive manure, hair and fleshings, blood, intestinal contents, animal hooves or toenails, bones, hog bristles, hides or parts thereof, excessive amounts of animal fat or flesh or particles of such materials larger than will pass through a quarter inch screen, poultry entrails, heads, feet, or feathers, food processing bulk solids, or garbage that has not been ground or comminuted to a diameter of less than one-half inch<sup>3</sup>;

(4) Any pollutant, including oxygen-demanding pollutants (BOD, COD, and TOC), released in a discharge at a flow rate or pollutant concentration that will interfere with the ability of the wastewater treatment plant to meet NPDES permit requirements<sup>4</sup>;

(5) Wastewater having a temperature that will cause the temperature of the wastewater plant influent to exceed 40°C (104°F) or will inhibit the biological activity of the wastewater treatment<sup>5</sup>;

(6) Any storm waters, including, without limitation, surface runoff, roof leaders, catch basins, or any other source;



- (7) Any wastewater containing radioactive wastes or isotopes of a half-life or concentration that exceeds provisions stated in "Rules and Regulations Pertaining to Radiation Control," Colorado Department of Public Health and Environment, State of Colorado, 2001. Facilities with one discharge shall meet the state standards at the single discharge location. If discharges from multiple locations contain radioactive waste, the sum of all discharges shall meet the state standards;
- (8) Any wastewater containing free, floating, or insoluble oil or oil or grease that will solidify or become discernibly viscous at temperatures between 0°C (32°F) and 65°C (150°F). In no case may wastewater contain concentrations of oils, fats, or grease that exceed one hundred milligrams per liter (100 mg/l) as determined by analytical methods approved by the city manager;
- (9) Any wastewater with objectionable color not removable in the treatment process, including, without limitation, dye wastes, paint pigments, and vegetable tanning solutions;
- (10) Any malodorous liquids, gases, or solids that either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or to prevent entry into the sewers for maintenance and repair or for sampling;
- (11) Any wastewater containing BOD, suspended solids, or total solids of such character or quantity that unusual attention or expense is required to handle such materials at the wastewater treatment plant; but a user may be permitted by specific, written agreement with the city to discharge such materials and pay for costs incurred in the treatment of such wastes;
- (12) Any substance that may cause the effluent or any other product of the wastewater treatment plant, such as sludges, scums, and residues, to be unsuitable for reclamation and reuse. In no case may a substance discharged into the POTW cause the wastewater treatment plant to fail to comply with NPDES permit requirements, receiving-water quality standards, or biosolids use and disposal criteria<sup>1</sup>;
- (13) Any subsurface drainage, including, without limitation, groundwater, water from underground drains, sump discharges, natural springs, water accumulated in excavations, or any other drainage associated with construction except for groundwater accepted into the POTW pursuant to Section 11-3-12, "Special Agreements and Contracts," B.R.C. 1981, and rules issued by the city manager pursuant to Section 11-3-24, "Rules," B.R.C. 1981;
- (14) Any wastes or pollutants transported by truck or otherwise hauled into the city, except at a discharge point designated by the city manager;
- (15) Any discharges which produce toxic gases, vapors, or fumes that may endanger the health or safety of POTW workers;
- (16) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause "interference" or "pass through" as defined in Section 11-3-3, "Definitions," B.R.C. 1981; or
- (17) Any hazardous waste as defined under federal or state laws.
- (e) No user or other person shall discharge into the POTW any material or substance not specifically mentioned in this section that in itself is corrosive, irritating, or noxious to human beings or animals or that by interaction with other water or waste in the public sewer system could produce undesirable effects or create any other condition deleterious to structures, treatment processes, and the quality of the receiving stream.
- (f) No user or other person shall make any false statement, representation, or certification, knowing it to be false, in any application, record, plan, data, or document filed or required to be maintained pursuant to this chapter.
- (g) No user or other person shall falsify, tamper with, or knowingly render inaccurate any monitoring device or method required under this chapter.
- (h) The city manager may require any user or other person discharging a deleterious substance to connect discharges legally to the POTW before continuing to generate said deleterious substances.

140 C.F.R. 43.5(a).

140 C.F.R. 403.5(b)(1).

240 C.F.R. 403.5(b)(2).

340 C.F.R. 403.5(b)(3).

440 C.F.R. 403.5(b)(4).

540 C.F.R. 403.5(b)(5).

1See Section 11-3-11, "Special Agreements and Contracts," B.R.C. 1981.

Ordinance Nos. 5397 (1991); 5771 (1995); 7346 (2004).

11-3-5 Specific Pollutant Limitations and Maximum Allowable Industrial Loadings.

No user of the wastewater utility shall discharge wastewater containing pollutants in excess of the following specific pollutant limitations, based on a sampling methodology that is most representative of the actual discharge. The city manager may also prohibit in writing any pollutant discharged into the wastewater utility that is within the concentration limitations but that interferes with the wastewater treatment plant process.

#### SPECIFIC POLLUTANT LIMITATIONS

(a) Flash Point (closed cup method)

Minimum = 187 degrees F

pH\*\*\* Minimum = 5.5

Maximum = 10.5

Oil and grease = 100 mg/l

BTEX = 750 ug/l

Benzene = 50 ug/l

Explosion Meter

Continuous Reading

One Reading Maximum = 10%

Lower Explosive Limit (LEL)

Two Successive Readings = 5%

Lower Explosive Limit (LEL)

\*\*\*When pH is monitored continuously it shall be a permit violation if there are any continuous excursions of more than five minutes where the pH is either greater than 10.5 or less than a pH of 5.5, unless otherwise stated in the industrial discharge permit. Excursions of less than 5.0 are violations regardless of duration.

(b) Maximum Allowable Industrial Loadings (lbs./day)

The city manager shall establish Maximum Allowable Industrial Loadings (MAILs) which are protective of wastewater treatment plant, Boulder Creek and/or wastewater biosolids. MAILs shall be established in accordance with 40 C.F.R. 403 and may evaluate loadings based on all applicable criteria including, but not limited to, biosolid regulations, NPDES permit requirements, in-stream water quality standards, and designated stream uses. The city manager shall apportion MAILs to permitted significant industrial users within the users Industrial Wastewater Discharge Permit. Apportioned MAILs issued under Industrial Wastewater Discharge Permits shall be considered Pretreatment Standards, and as such are enforceable. The sum of all apportioned MAILs may not exceed the total MAILs listed below. The city manager may assign additional limits as deemed necessary to be protective of the wastewater treatment system.

Maximum Allowable Industrial Loadings to be apportioned to permitted users (pounds per day)

Arsenic: 0.86

Cadmium: 0.57

Chromium - Total: 31.72

Chromium - Hex: 6.32

Copper: 5.36

Lead: 2.29

Mercury: 0.043

Molybdenum: 2.09

Nickel: 3.53

Selenium: 1.67

Silver: 0.64

Zinc: 27.32

Ordinance Nos. 5397 (1991); 5677 (1994); 5771 (1995); 7346 (2004).

11-3-6 Preemption by State or Federal Standards unless City Standards more Stringent.

(a) The national categorical pretreatment standards as currently set forth in 40 C.F.R. Parts 405-471, are incorporated into these regulations and are adopted by reference.

(b) If the federal government issues federal categorical pretreatment standards for an industrial category that are more stringent than the standards prescribed by this chapter, such federal standards supersede the standards prescribed by this chapter.

(c) The city manager reserves the right to establish discharge limitations more stringent than federal and state requirements, or limitations contained herein, if deemed necessary to comply with objectives of this chapter.

Ordinance Nos. 5771 (1995); 7346 (2004).

11-3-7 Dilution of Discharge.

No user shall increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with any applicable limitations.<sup>1</sup> The city manager in consultation with the user shall determine whether a dilution has occurred.

140 C.F.R. 403.6(d).

Ordinance No. 5771 (1995).

11-3-8 Accidental Discharges.

(a) Each user shall ensure that the POTW is protected from accidental discharge of prohibited materials or other substances regulated by this chapter which are discharged by or from the user's facilities. Such protection shall be provided and maintained by the user at the owner's or user's own cost and expense. Upon request by the city, a user may be required to submit detailed plans including procedures for handling accidental discharges of materials or substances regulated by this chapter to the POTW.

(1) Each user shall permanently post a spill prevention and notification procedure in compliance with this section on its bulletin board and prominently display the procedure at each area of possible accidental discharge.

(2) In the case of an accidental discharge, no user shall fail to notify immediately by telephone the superintendent or supervisor at the city's wastewater treatment plant of the location of discharge, type of waste, concentration, volume, and corrective actions. In addition to taking any other remedies for a failure to report accidental discharges, the city manager may revoke any discharge permit issued to the user.

(3) Within five working days following an accidental discharge, the user shall submit to the city manager a detailed written report describing the cause of the discharge and measures to be taken by the user to prevent similar future occurrences. Such notification does not relieve the user of any expense, loss, damage, or liability that may be incurred from damage to

the wastewater utility or quality of receiving stream or any other damage to persons or property. Such notification shall not relieve the user from any fines, civil penalties, or other liability that may be imposed by this chapter or other applicable law.

(b) The city manager may require installation, operation, and maintenance of facilities to prevent accidental discharge of such materials or substances, at the user's expense.

Ordinance No. 5771 (1995).

#### 11-3-9 Septage Tank Waste.

Discharge of septage tank waste must follow requirements set forth in City of Boulder Policy and Procedure for Septage Waste Dumping, City of Boulder Wastewater Utility, February, 2002.

Ordinance Nos. 5677 (1994); 7346 (2004).

#### 11-3-10 Grease/Sand Interceptors and Grease Traps.

(a) No person operating a filling station, garage, or similar facility having wash or grease racks shall discharge into the wastewater utility unless such person has installed and properly maintains a grease/sand interceptor or grease trap of a size and construction approved by the city manager, for such facility.

(b) No person operating a restaurant or food preparation establishment discharging wastewater containing greater than one hundred milligrams per liter (100 mg/l) of oil and grease or that causes grease buildup or blockage of the POTW shall fail to install a grease/sand interceptor or grease trap.

(c) All grease/sand interceptors or grease traps shall be properly inspected and serviced at a minimum of once every six months, and as additionally required to prevent excessive grease or sand from entering the POTW. Excessive grease is any discharge containing grease in excess of one hundred milligrams per liter (100 mg/l) or which causes grease buildup or blockage of the POTW. Excessive sand is any discharge of sand which causes a blockage or obstruction of the POTW. Records of maintenance and service shall be kept on file by the owner or operator for a minimum of three years and shall be made available for review by the city manager.

Ordinance No. 5771 (1995).

#### 11-3-11 Photographic Material Processing.

(a) No person operating photographic material processing equipment including, without limitation, the development of silver bearing film, x-ray film, or photographic paper, shall discharge silver bearing photographic solutions into the wastewater utility at a level of silver concentration in excess of one hundred milligrams per liter (100 mg/l). This limit shall become effective on December 31, 1999.

(b) All photographic processors shall either recover silver from spent solutions as set forth in subsection (a) of this section, or utilize off site disposal in a manner consistent with federal, state, and local, laws and regulations.

(c) Photographic material processing equipment users that recover silver from spent solutions must properly maintain each silver recovery system at a minimum of once every six months. Additional periodic maintenance shall be required as recommended by the manufacturer, and as necessary to meet the limitations set forth in subsection (a) of this section. Records of maintenance and service shall be kept on file by the owner or operator for a minimum of three years and such records shall be made available for review upon request by the city manager.

(d) The owner or operator of photographic material processing equipment that chooses off site disposal of silver bearing solutions shall keep records of purchases and disposals on file for a minimum of three years and such records shall be made available for review upon request by the city manager.

(e) Sampling to determine compliance with this section shall be at a location immediately following treatment for silver removal and prior to dilution or mixing with other waste streams.

#### 11-3-12 Special Agreements and Contracts.

(a) No statement contained in this chapter shall be construed as prohibiting special written agreements between the city and any user allowing wastes of unusual strength or character to be admitted to the wastewater utility.

(1) A special written agreement may include groundwater, but shall not include domestic wastes.

(2) Except as set forth below, agreements shall require treatment consistent with, or similar to, federal, state, and local, laws and regulations.

(3) The user shall compensate the city for any additional costs of treatment and for any other costs incurred by the city as determined by the city manager including, without limitation, the following:

(A) Costs associated with review and issuance of the permit or agreement consistent with hourly review rates for city staff as outlined in Section 4-20-43, "Development Application Fees," B.R.C. 1981;

(B) Costs associated with ongoing monitoring; and

(C) Indemnification of the city, its officers, employees, and agents, for any costs to such parties, including staff time and attorney's fees, for damages, judgments, fines, settlements, costs, and expense which may in any manner accrue against such party as a consequence of the grant of such permit.

(b) The city manager may execute an agreement to exceed any specific pollutant limitations required by this chapter, only if the manager finds that:

(1) The user is making reasonable progress toward eliminating the violation;

(2) Compliance with the specific pollutant limitation during a time period agreed upon for installation of proper pretreatment equipment would impose undue hardship; and

(3) Acceptance of the discharge does not adversely affect the wastewater utility nor cause violation of the city's NPDES discharge permit and applicable federal and state laws. Ordinance Nos. 5397 (1991); 7400 (2004).

#### 11-3-13 Wastewater Classification Survey<sup>1</sup>.

(a) Sixty days prior to discharge into the city wastewater utility, all users, required by the city manager, shall pay the filing fee prescribed by Section 4-20-31, "Wastewater Classification Survey Filing Fee and Industrial and Groundwater Discharge Permit Fees and Charges," B.R.C. 1981, and complete and file with the city manager a wastewater classification survey containing the following information:

(1) Name and facility address;

(2) Type of services rendered and products produced;

(3) Principal raw materials and catalysts used;

(4) Plant operational characteristics;

(5) Water use information;

(6) Wastewater discharge information;

(7) Wastewater generation;

(8) Wastewater quantities and constituents;

(9) Wastewater pretreatment;

(10) Non-discharge wastes and their disposal;

(11) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget 1987 or the North American Industry Classification System (NAICS);

(12) Documented average daily and thirty minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any;

(13) Site plans, floor plans, mechanical and plumbing plans, and details to show all known sewers, sewer connections and appurtenances by the size, location, and elevation;

(14) Description of activities, facilities, and plant processes on the premises, including all materials which are or could be discharged;

- (15) Each product produced by type, amount, process or processes, and rate of production;
  - (16) Type and amount of raw materials processed (average and maximum per day);
  - (17) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;
  - (18) Waste minimization information as requested by the city manager; and
  - (19) Any additional information determined to be relevant by the city manager.
- (b) All users obtaining a building permit for initial construction or for building expansion or remodeling shall complete and submit the survey to the city manager for review prior to approval of the building or remodeling permit.
- (c) All users shall update the wastewater classification survey on file with the city manager whenever significant changes are made in the wastewater discharge. Significant changes include, without limitation, an increase or decrease in wastewater volume, concentration of materials or substances, or changes in types of wastes that will last for a period exceeding normal wastewater production variations. If the normal quantity or quality of the discharge has changed, the user shall so notify the city manager by letter. The city manager may request a new submittal of the wastewater classification survey as deemed necessary.

140 C.F.R. 403.8(f)(2)(i).

Ordinance Nos. 5771 (1995); 7346 (2004).

11-3-14 Industrial Discharge Permitfn.

(a) A user shall obtain an industrial discharge permit if the user:

- (1) Has a monthly process water contribution to the POTW over seven hundred fifty thousand gallons;
- (2) Is subject to an excess user charge for TSS, NH<sub>3</sub>-N, BOD, or COD as provided in this chapter;
- (3) Is subject to federal categorical pretreatment standards;
- (4) Is determined by the city manager to have significant impact, or the potential to have impact based on the characteristics of the potential discharge or the operation and management practices of the user, either singly or in combination with other contributing industrial users, on the quality of the wastewater treatment plant's effluent, biosolid, scum, or residues or on the treatment process or facilities; or
- (5) Is determined by the city manager to violate any of the provisions of Sections 11-3-4, "General Prohibitions," and 11-3-5, "Specific Pollutant Limitations and Maximum Allowable Industrial Loadings," B.R.C. 1981, or have the potential to violate any such provisions based on the characteristics of the potential discharge or the operation and management practices of the user; or
- (6) Is a "significant user" as defined in Subsection 11-3-3(a), B.R.C. 1981.

(b) Users required to have an industrial discharge permit shall apply for a permit at least sixty days prior to discharging into the POTW.

(c) Industrial discharge permits are subject to all provisions of this chapter and all other applicable regulations, user charges, and fees established by the city. Permits may contain, without limitation, the following:

- (1) Limits on the average and maximum concentration or mass of wastewater constituents and characteristics;
- (2) Limits on average and maximum rate and time of discharge or requirements for flow regulation and equalization;
- (3) Schedules for installation of pretreatment equipment to bring discharge into compliance with applicable regulationsfn;
- (4) Requirements for installation and maintenance of inspection and sampling facilities;
- (5) Specifications for monitoring programs that include sampling locations; frequency of sampling; number, type and standards for tests; and reporting schedules;
- (6) Requirements for submission of technical reports, discharge reports, and compliance progress reportsfn;

- (7) Requirements for maintaining and retaining records relating to wastewater discharge as specified by the city and affording city access thereto;
- (8) Requirements for notification of slug loads;
- (9) Requirements for notification of the city of the new introduction of wastewater constituents or any change in character of the wastewater constituents or average volume being introduced into the wastewater utility;
- (10) Compliance schedules;
- (11) A requirement that industrial waste be discharged into the sanitary sewer by a connection separate from that by which domestic waste from the same premises is discharged, except that a single connection discharging both industrial waste and domestic waste may be used when it has been determined by the city manager that:
- (A) Industrial waste is a minor and acceptable portion of the sewage;
- (B) Industrial waste can be kept separate in the user's facility and pretreated to meet effluent limits before combining with the domestic waste; and
- (C) Combined sewage can be pretreated to meet effluent limits;
- (12) A requirement that each person discharging industrial waste into the POTW construct suitable sampling and gauging stations or provide such inspection facilities as may be required by the city manager;
- (13) A requirement that each person discharging industrial waste into the POTW, at the user's own expense, provide and maintain continuously such pretreatment as may be required by this chapter;
- (14) A provision that the city manager, at any time before or after granting a permit, require additional pertinent information from each person discharging industrial waste into the POTW;
- (15) A requirement that the user will indemnify, to the extent legally permissible, the city, its officers, employees and agents for damages, judgments, costs and expense which may in any manner accrue against the city in consequence of the grant of such permit;
- (16) A requirement that all new laterals connecting to the main sanitary sewer and all new sanitary sewers and extensions must be designed and constructed in accordance with the city's standard specifications;
- (17) A requirement that all permittees are subject to the administrative and civil enforcement provisions of this code, and, to the extent permitted by law, the city's criminal jurisdiction as well; and
- (18) Other conditions as deemed necessary by the city manager to enforce the provisions of this chapter.
- (d) The city manager shall issue industrial discharge permits for a specified time period not to exceed five years. The user shall apply for permit reissuance at least sixty days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the city manager during the term of the permit if limitations or requirements are modified, if necessary to meet requirements of the city's NPDES discharge permit, or if there is other good cause. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
- (e) No permittee shall violate the terms and conditions of the permittee's industrial discharge permit.
- (f) An applicant for a permit shall pay the fees prescribed by Section 4-20-31, "Wastewater Classification Survey Filing Fee and Industrial and Groundwater Discharge Permit Fees and Charges," B.R.C. 1981.
- (g) An industrial discharge permit may not be sold, traded, assigned, sublet, or otherwise transferred. Any new significant industrial user must obtain an industrial discharge permit regardless of whether a permit previously existed for the same premises.
- fn40 C.F.R. 403.8(f)(1)(iii).
- fn40 C.F.R. 403.8(f)(1)(iv).
- fn40 C.F.R. 403.8(f)(1)(iv)(B).

fn40 C.F.R. 403.8(f)(1)(v).

fn40 C.F.R. 403.8(f)(1)(i).

Ordinance Nos. 5397 (1991); 5526 (1992); 5771 (1995); 7346 (2004).

#### 11-3-15 Monitoring Facilities.

(a) Whenever the city manager finds it necessary, a user shall provide and operate, at its expense, monitoring equipment and facilities sufficient to allow inspection, sampling, and flow measurements of the private sewer or internal drainage system. The owner of any new building constructed or proposed to be constructed in an industrially zoned area with a floor space of greater than 5,000 square feet or with a water meter size of greater than three-fourths inch shall install a monitoring facility prior to final building inspection approval.

(b) The monitoring facility shall normally be situated outside of the building on the user's premises. If the user's service line ties into an existing city utility access point and such utility access point allows for safe sampling and isolation of the user's discharge, the city manager may allow the utility access point to serve as the user's monitoring facility, but the city manager may require that the user provide and operate an alternate monitoring facility, if the city manager finds it is necessary.

(c) Whenever required by the city manager, any significant user or user discharging prohibited substances or specific pollutants serviced by a private sewer carrying non-residential wastewater shall install a monitoring facility for each separate discharge that the city manager finds necessary to monitor. Each separate monitoring facility shall meet requirements set forth by the city manager with safe and independent access for city personnel at all times.

(d) The user shall maintain the utility access point or facility to allow for accurate sampling and preparation of samples for analysis. The user shall maintain the facility it owns and operates and all sampling and measuring equipment at all times in a safe and proper operating condition at the user's expense.

(e) Whether constructed on public or private property, the user shall construct the sampling and monitoring equipment and facilities in accordance with monitoring requirements and all applicable city construction standards and specifications within sixty days following written notification by the city manager or before final building inspection approval.

(f) All users shall provide safe access to sampling and monitoring sites and pretreatment facilities at all times for authorized city personnel.

Ordinance No. 5771 (1995).

#### 11-3-16 Sampling and Analysis.

(a) All users shall obtain city manager approval for all sampling and measuring equipment prior to its installation or use. All measuring, tests, and analyses and all sampling shall be at the expense of the industrial user.

(b) All measurements, tests, and analyses of the characteristics of water and wastes shall be determined in accordance with the techniques and procedures prescribed in 40 C.F.R. Part 136 or with any other test procedures approved by the EPA or the city manager. Samples shall be taken from the utility access point, or other specified location as described in the permit. The city manager may direct a user to save a sample split of any reported sample and to deliver the sample to the water quality laboratory for analytical verification.

(c) The city manager shall determine the frequency of sampling, measuring, and analyses and include them as conditions of the user's industrial discharge permit. The city manager may impose mass limitations on industrial users that use flow equalization to meet applicable standards or requirements or in other cases where imposition of mass limitations are appropriate.

(d) The city manager shall have the authority to sample and inspect each significant industrial user at least once a year, and more often as necessary, and to inspect any other industrial user as needed to insure compliance with this chapter.

(e) Whenever sampling and analysis is utilized for determining compliance with this chapter, a violation of any limitation required by this chapter shall occur at discharge monitoring points designated in an industrial discharge permit or at a representative sampling point, if there is no industrial discharge permit. Violations at such monitoring points shall constitute violations of the industrial discharge permit or this chapter.

(f) The city manager shall have the authority to require users to conduct groundwater and soil sampling when there is probable cause to believe that any surface or groundwater on or emanating from the property violates any federal, state, or local regulations including:



(1)Colorado Department of Public Health and Environment, Basic Standards for Surface Water<sup>1</sup>.

(2)Colorado Department of Public Health and Environment, Basic Standards for Groundwater<sup>1</sup>.

(3)Federal listing of hazardous wastes<sup>2</sup>.

13.11.0, et seq. (5 CCR 1002-8), as amended.

140 C.F.R. Section 261.

Ordinance Nos. 5397 (1991); 5677 (1994); 5771 (1995).

11-3-17 Reporting Requirements<sup>3</sup>.

(a)All significant users and all users required to have a permit, shall submit reports to the city manager at least once every six months or as required by the permit. Reports shall contain information and data as required by the permit and shall be signed by an authorized representative of the user.

(b)Industries subject to federal categorical pretreatment standards shall also comply with the reporting requirements set forth in 40 C.F.R. Section 403.12.

(c)Reports shall be signed by an authorized representative and shall include the following statement: "I hereby certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my examination of the person or persons who managed the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

(d)Any user may be required to submit periodic self-monitoring reports to the city manager if such reporting is deemed necessary in order to assess the potential impact of a discharge into the POTW. This includes, but is not limited to, the discharge of toxic pollutants by the user. Permittees and users may also be required to submit reports concerning non-compliance with industrial discharge permits or this chapter. Any report submitted pursuant to this section shall follow the signatory and certification requirements set forth in this chapter.

340 C.F.R. 403.8(f)(1)(iv)(B).

Ordinance No. 5397 (1991); 5771 (1995).

11-3-18 Suspension and Revocation of Permit.

(a)The city manager may suspend or revoke an industrial discharge permit and the permission of such user to discharge industrial waste or wastewater into the POTW when such suspension or revocation is necessary, in the opinion of the city manager, in order to stop any discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or to the environment, causes interference to the POTW, or causes the city to violate any condition of its NPDES permit.

(b)Any person notified of a suspension or revocation of the industrial discharge permit shall immediately stop or eliminate the discharge of all industrial waste or wastewater into the POTW. In the event of a failure of the person to comply with the suspension or revocation order, the city manager shall take such steps as deemed necessary, including immediate severance of the sanitary sewer connection, to prevent or minimize damage to the POTW or endangerment of any individuals. The city may reinstate the industrial discharge permit upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the city manager within thirty days of the date of occurrence.

(c)In addition to, or in lieu of, any other penalties imposed by this section, the city manager may seek the suspension or revocation of any permit issued pursuant to this chapter if the user:

(1)Violates any condition of the permit;

(2)Violates any of the provisions of this chapter or applicable state and federal regulations;

(3)Fails to report factually the wastewater constituents and characteristics of the discharge;

- (4)Fails to report significant changes in operations or wastewater constituents and characteristics;
- (5)Knowingly makes a false statement in the wastewater survey;
- (6)Obtains the permit fraudulently or by making a misrepresentation;
- (7)Tampers with, disrupts, or damages city monitoring and sampling equipment or facilities;
- (8)Refuses reasonable access to the user's premises for the purpose of inspection or monitoring; or
- (9)Fails to pay fees or charges timely.

(d)Whenever the city manager finds that any user has violated or is violating any provision of this chapter, including, without limitation, any provision of an industrial discharge permit, the city manager may serve upon such person a written notice stating the nature of the violation and providing a reasonable time, not to exceed forty-five days, for the satisfactory correction thereof. The user may request a meeting with the city manager to discuss the violation or the correction schedule.

(e)If the city manager finds one of the grounds in subsections (a), (b), or (c) of this section or any other ground for suspension or revocation in this code, the city manager shall determine whether to revoke the license for the remainder of its term or suspend it for any shorter period according to severity of the disqualification, its effect on public health, safety, and welfare, and the time during which the disqualification can be remedied if at all.

(f)Before the hearing required by subsection (g) of this section, the city manager may suspend a permit for up to twenty days, if the city manager determines that the suspension is necessary to prevent an imminent danger to the public health, safety, and welfare. The city manager may include in the temporary suspension reasonable orders or conditions with which the permittee shall comply to protect the public health and safety. Any breach of such conditions or orders is an independent ground for revocation of the permit.

(g)Except for such emergency suspension authorized by subsection (f) of this section, no such suspension or revocation shall be final until the permittee has been given the opportunity for a hearing to contest the suspension or revocation under the procedures prescribed by Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981.

(h)If, after a hearing, the suspension or revocation is upheld, the city manager may include reasonable orders or conditions with which the person whose license has been suspended or revoked shall comply to protect the public health, safety, and welfare.

(i)The user shall pay all costs and expenses associated with any such suspension and restoration of service.

(j)The city manager is authorized to seek a temporary restraining order and an injunction to halt or abate any dangerous discharges immediately.

Ordinance Nos. 5677 (1994); 5771 (1995).

#### 11-3-19 Civil and Criminal Liability for Expenses and Fines.

(a)Any user violating provisions of this chapter shall be liable under any applicable federal, state, or local law for any expense, loss, or damage caused the city by reason of such violation, including the increased costs for managing effluent, sludge, or operations when such increases are the result of the user's discharge.

(b)If a user discharges such pollutants that cause the city to violate any condition of its NPDES permit and to be fined by EPA or the state for such violation, such user is fully liable for the total amount of the fine assessed against the city, including, without limitation, all legal, sampling, and analytical testing costs.

(c)The penalty for violation of any provision of this chapter is a fine of not more than \$1,000.00 per violation per day, or incarceration for not more than ninety days in jail, or both such fine and incarceration.

(d)For the purposes of this chapter a single violation consists of a violation of any provision of this chapter including, without limitation, any provision of an industrial discharge permit or any of the specific pollutant limitations contained in Section 11-3-5, "Specific Pollutant Limitations and Maximum Allowable Industrial Loadings," B.R.C. 1981. The city manager may pursue, singly or in combination, any remedies provided by this chapter.

Ordinance No. 5397 (1991).

### 11-3-20 Injunctive Relief.

If any user discharges into the city wastewater utility in violation of this code, federal or state law or regulations, or any order of the city, the city attorney may commence an action for legal or equitable relief, including a petition in a court of appropriate jurisdiction for a temporary restraining order and preliminary and permanent injunctions against the violation.

### 11-3-21 Administrative Enforcement Remedies.

(a)Notice of Violation: Whenever the city manager finds that any user or other person has violated or is violating this chapter, or a permit or administrative order issued hereunder, the city manager may have served upon said user an administrative notice of violation. The notice may require an explanation of the violation and the submission of a satisfactory plan for the correction and prevention thereof. Submission of the plan and completion of any related actions shall not relieve the user or other person of liability for any violations of this chapter occurring before or after receipt of the notice or prevent the city manager from taking any other enforcement action authorized under this chapter.

(b)Administrative Orders: Whenever the city manager finds that any user or other person has violated or is violating this chapter, or a permit or administrative order issued hereunder, the city manager may have served upon said user or other person an administrative order. Such order may be a compliance order, a show cause order, a cease and desist order, or an order assessing an administrative fine. Compliance with an administrative order shall not relieve the user or other person of liability for any violations occurring before or after the issuance of the administrative order or prevent the city manager from taking any other enforcement action authorized under this chapter.

(c)Consent Orders: The city manager is authorized to enter into consent orders establishing an agreement with any user or other person responsible for non-compliance with the provisions of this chapter, or of a permit or administrative order issued under this chapter. Such orders shall include specific action to be taken to correct the non-compliance within a time period also specified by the order.

#### (d)Hearings:

(1)Whenever the city manager finds that any user or other person has violated or is violating this chapter, or a permit or administrative order issued hereunder, the city manager may hold a show cause hearing. A show cause order specifying the time and place of the hearing, the reason for the hearing, any proposed enforcement action, and a request that the user or other person show cause why the proposed enforcement action should not be taken, shall be served on the user or other person. The show cause order shall be served on the user or other person at least ten days prior to the hearing. Whether or not a duly notified user or other person appears or is represented at the hearing, the city manager may immediately pursue any other enforcement action authorized under this chapter.

(2)Any user or other person that has been served with an administrative order may request, within fourteen days of receipt of such administrative order, an administrative hearing to be conducted by the city manager. The city manager shall hold a hearing pursuant to Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, within twenty-one days of such request.

(e)Administrative Fines: Whenever the city manager finds that any user or other person has violated or is violating this chapter, or a permit or administrative order issued hereunder, the city manager may issue and serve on the user or other person an administrative order assessing an administrative fine against the user or other person. The city manager may assess an administrative fine of up to \$1,000.00 for each violation of this chapter and for each violation of any section or individual constituent of an industrial discharge permit. Each day on which violations continue shall be deemed to be separate and distinct violations. In addition, the city manager may assess a charge to recover costs incurred by the city to investigate and prosecute the alleged violations. Such assessed fines may be added to the user's or other person's next scheduled sewer service charges and if not paid may be collected as other delinquent utility charges under this chapter. Such unpaid fines shall also constitute a perpetual lien as provided against the real property to which the sewer service is provided. Payment of an administrative fine shall not relieve the user or other person of any other liability provided for under this chapter or prevent the city manager from taking any other enforcement action authorized under this chapter.

(f)Administrative Appeal Procedure: Any user or other person affected by and dissatisfied with any decision, action, administrative order, assessment of administrative fine, or determination made and issued by the city manager in interpreting, enforcing or implementing the provisions of this chapter, or the provisions of any permit or administrative order issued under this chapter, may file with the city manager a written request for reconsideration. Such request shall be filed within fourteen days of such decision, action, administrative order or determination and shall set forth in detail the facts supporting the request. The city manager shall hold a hearing pursuant to Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, within twenty-one days of such request and shall issue a decision within twenty-one days from the date of the hearing. The original decision, action, administrative order or determination shall remain in effect during the reconsideration period.

(g)The parties may agree to modify the time requirements in this section.

#### 11-3-22 Public Notification<sup>1</sup>.

The city manager shall annually publish in a newspaper of general circulation in the city a list of all users that are in "significant non-compliance" as defined in Subsection 11-3-3(a), B.R.C. 1981, during the twelve previous months and a summary of any enforcement actions taken against such users during the twelve month period.

140 C.F.R. 403.8(f)(2)(vii).

Ordinance No. 5397 (1991).

#### 11-3-23 Excess User Charges.

(a)Users required to obtain an industrial discharge permit and discharging wastes in excess of average strength sewage (230 mg/l BOD, 220 mg/l TSS, 25 mg/l NH<sub>3</sub>-N, or 490 mg/l COD) shall pay excess user charges in addition to wastewater utility fees prescribed by Section 4-20-28, &ldquo;Monthly Wastewater User Charges,&rdquo; B.R.C. 1981.

(b)Sampling, analyses, and reporting requirements to determine the excess user charge are a condition of the user&rsquo;s industrial discharge permit and shall be carried out in accordance with procedures contained in this chapter.

(c)On discharges of consistent strength, the city manager may compute a standard excess user charge based on average strength of the user&rsquo;s discharge. The user shall sample, analyze, and report discharge strengths on a periodic basis to ensure consistency of sewage strength.

Ordinance Nos. 4879 (1984); 5158 (1988); 5526 (1992); 5771 (1995).

#### 11-3-24 Rules.

(a)The city manager may promulgate such rules as the manager considers necessary to implement and enforce this chapter.

(b)No person shall violate any rule issued by the city manager under this section.

Ordinance No. 5397 (1991).

#### 11-3-25 Notification of Hazardous Waste.

Any user who discharges a characteristic or listed hazardous waste, as defined by federal law<sup>2</sup>, shall promptly notify the city manager in writing of the discharge. Notification, as required by this section, shall contain such information as required by federal law<sup>3</sup>.

240 C.F.R. 261.

340 C.F.R. 403.12(p).

Ordinance No. 5397 (1991).

#### 11-3-26 Disconnection and Reconnection.

Upon the suspension of services or revocation of any permit issued pursuant to these regulations, the city manager may disconnect from the sewer system any user&rsquo;s premises if the user has failed to make such disconnection or comply with these provisions. Whenever a sewer has been disconnected by the city manager for failure to comply with these provisions, reconnection may be made only upon written authorization or of issuance of a new permit by the city manager. Before such permit is issued, the applicant shall pay the city for the cost of the disconnection made and for the anticipated cost of the reconnection.

Ordinance No. 5771 (1995).

#### 11-3-27 City&rsquo;s Right of Revision.

The city reserves the right to establish more stringent limitations or requirements on discharges to the POTW at any time.

Ordinance No. 5771 (1995).

### 11-3-28 Fees and Charges.

All users shall pay fees as set forth in Section 4-20-28, &ldquo;Monthly Wastewater User Charges,&rdquo; B.R.C. 1981.

Ordinance No. 5771 (1995).

### 11-3-29 Inspection.

(a)The city manager shall have access to and shall be allowed to inspect the facilities and records of any user to ascertain whether the purposes of this chapter are being met and whether all requirements are being satisfied. Occupants of premises where wastewater is created or discharged shall allow the city manager ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling records examination, taking photographs, and copying, or the performance of any of the city manager&rsquo;s duties under this chapter. The city, state and EPA shall have the right to set up on the user&rsquo;s property such devices as are necessary to conduct sampling inspection, compliance monitoring and metering operations.

(b)If a user has security measures in force which would require proper identification and clearance before entry into the user&rsquo;s premises, the user shall make necessary arrangements with its security guards so that upon presentation of suitable identification, personnel from the city or the EPA will be permitted to enter, without delay, for the purposes of performing their responsibilities under this chapter.

Ordinance No. 5771 (1995).

### 11-3-30 Pretreatment Facilities.

(a)Users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the city manager shall be operated and maintained at the user&rsquo;s expense.

(b)Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city manager for review, and must be certified as acceptable to the city manager before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city manager under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and must be certified as acceptable to the city manager prior to the user&rsquo;s initiation of the changes.

(c)All preliminary studies, plans and specifications must be prepared by a registered professional engineer retained by the discharger and the plans shall be reviewed and must be approved by the city manager prior to construction of the facility.

Ordinance No. 5771 (1995).

### 11-3-31 Confidential Information.

Any user submitting information to the city manager pursuant to this chapter may claim it to be confidential if the user demonstrates to the satisfaction of the city manager that release of such information would divulge information, processes, or methods of production entitled to protection as the user&rsquo;s trade secrets<sup>1</sup>.

(a)The user must assert such claim at the time of submission by stamping the words &ldquo;confidential business information&rdquo; on each page containing such information. If no such claim is made at the time of submission, the city manager may make information available to the public without further notice<sup>2</sup>.

(b)The city manager shall not publicly disclose such confidential information. Such information shall be available for use by the city manager or any federal or state agency in judicial review or enforcement efforts and proceedings involving the user furnishing the information.

(c)The city manager may provide confidential information to governmental agencies upon written request for uses directly related to enforcement of this chapter. But the city manager shall not transmit information accepted by the city as confidential to any governmental agency until the city manager has provided fourteen days&rsquo; written notification to the user.

(d)Effluent or discharge data is not confidential unless the city manager agrees it is of a proprietary nature.

140 C.F.R. 403.8(f)(1)(vii).

240 C.F.R. 403.14.

Ordinance No. 5771 (1995).

[Return to Title 11 Menu](#)